



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DONORDIRECT.COM, INC.,

Plaintiff,

- against -

BLUEFIN PAYMENT SYSTEMS LLC, a/k/a
Capital Payments LLC,

Defendant.
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19-CV-10856 (GBD) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This Order resolves the discovery disputes raised in the parties' letters at Dkt. 39 and 41.

1. Bluefin Document Production: Bluefin represents that it has produced all non-privileged documents responsive to Plaintiff's requests for production of documents as directed by the Court. (Dkt. 41.) Plaintiff may test that proposition during depositions. In the event Plaintiff learns of additional responsive documents that should have been but were not produced, Bluefin may be at risk of sanctions, including (a) having to bring a witness or witnesses back for deposition, (b) paying for the cost of doing so, and (c) other appropriate relief.

2. Bluefin Responses to Interrogatories: Bluefin's objections to the interrogatories on the basis of Local Rule 33.3 are overruled.

3. With respect to interrogatories 1 and 2, Bluefin may respond by referencing documents it has produced containing the requested information and identifying where in the documents the information can be found. Bluefin has tentatively done so but shall amend its answers to make them direct answers (not qualified by objection and a see

cite), identify documents by bates number, and be more specific about where the information is located within those documents and, if applicable, how to access that information.

4. With respect to interrogatory 3, Bluefin need not answer subparts (a), (b), and (c). Bluefin shall answer subparts (d) through (i) by providing a brief summary of the factual basis for each affirmative defense asserted as known to Bluefin at the time it answers. It is understood that discovery may lead to additional relevant information, and Bluefin will retain the ability, indeed the obligation, to supplement its answers if there is a basis to do so. But in the meantime, Plaintiff is entitled to a basic understanding of the basis of Bluefin's affirmative defenses so that it may conduct discovery about them.

5. With respect to interrogatory 4, Bluefin shall answer to the extent it knows, at the time it answers, of any additional affirmative defense it intends to assert and shall answer in the manner as proscribed in item 4 above.

6. The Court approves the amended discovery schedule attached as exhibit 2 to Dkt. 39 and will issue a separate order accordingly.

SO ORDERED.



ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: October 28, 2020
New York, New York

Copies transmitted this date to all counsel of record.